

P.O.S.T. BOARD MEETING
RECORD OF PROCEEDINGS
September 23, 2011

The Peace Officer Standards and Training Board held its 376th Board meeting at the Cambria Suites in Pueblo, Colorado with the following in attendance:

BOARD MEMBERS

CHIEF MARK BECKNER
CHIEF JOHN CAMPER
CHIEF HEATHER COOGAN
SERGEANT LOUIS DIXON III
SHERIFF JAMES FAULL
SHERIFF CHRIS JOHNSON
CHIEF DANIEL OATES
OFFICER NICHOLAS A. PECK
SHERIFF JOE PELLE
PUBLIC MEMBER BOB PENCE
ATTORNEY GENERAL JOHN SUTHERS
SHERIFF DAVID WEAVER
CHIEF DAVID WOHLERS
SAC JAMES YACONE

BOARD MEMBERS ABSENT

EXECUTIVE DIRECTOR JAMES DAVIS (excused)
SERGEANT DAVID EDMONDSON (excused)
SHERIFF LOUIS VALLARIO (excused)
CHIEF GERALD WHITMAN (excused)

BOARD COUNSEL

DIANE MARIE DASH, Assistant Attorney General

STAFF MEMBERS

PAUL SCHULTZ, P.O.S.T. Director
STEVE NEUMEYER, P.O.S.T. Deputy Director
MICHAEL DOUGHERTY, Deputy Attorney General
CRISTINE MACK, P.O.S.T. Investigator
RUTH VANDERBROEK, Compliance Officer

MEMBERS OF THE PUBLIC IN ATTENDANCE

PAT HEINE, Pueblo Police Department
ED KAFEL, El Paso Sheriff's Office
MARY KUBICK, Pueblo Community College
SAL PACE, State Representative
JD ROSS, El Paso Sheriff's Office
KATHY SASAK, Colorado Department of Public Safety
JOEL F. SHULTS, Adams State College Police Department
LUIS VELEZ, Pueblo Police Department

The following Subject Matter Expert Committees met prior to the regular P.O.S.T. Board meeting on September 23, 2011.

Firearms Committee

Introductions:

1. Welcome Attorney General John W. Suthers

New Board Member Appointments and Re-Appointments

- A. Re-Appointment of Chief Dave Wohlers, Idaho Springs
- B. Appointment of Chief Daniel Oates, Aurora
- C. Appointment of Chief John Camper, Grand Junction
- D. Appointment of Sheriff David Weaver, Douglas County
- E. Appointment of Chris Johnson, Otero County

Welcome by Sheriff Taylor

2. Introduction of Board Members, Staff, S.M.E. Members and Guests
3. Roll Call Director Paul Schultz
Declaration of a Quorum

4. Approval of P.O.S.T. Board Minutes for June 3, 2011
Approved

5. Selection of Vice-Chair Attorney General John Suthers
Chief Coogan was selected as the new vice-chair

Public Announcement of Formal Rule Making Hearing:

6. Formal Rule Making Hearing Attorney General John Suthers
Board Counsel Diane Dash
Director Paul Schultz

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- A. Summary of Proposed P.O.S.T. Rule Changes
Colorado Department of Regulatory Affairs Review/Response
 - 1. Rule 10 – *Conditional Peace Officer Authority and Basic Peace Officer Certification*
 - 2. Rule 11 – *Provisional Certification*
 - 3. Rule 12 – *Reserve Certification*
 - 4. Rule 15 – *Certification Examination – Conditional, Provisional, Renewal*
 - 5. Rule 17 – *Certification Records*
 - 6. Rule 23 – *Academy Skills Instructors*
- B. Public Comment
- C. Vote of Board Members
Approved unanimously

Presentations:

7. Subject Matter Expert (S.M.E.) Committee Reports

- A. Curriculum
 - Chief Phil Baca, Chairman
 - Sgt. David Edmondson, Vice-Chairman
 - Sheriff Joe Pelle, Board Member

The curriculum committee met September 16, 2011 at the Colorado Springs Police Department Academy. Sergeant Eric Whitman of the Aurora Police Department was accepted as a member of the committee.

A refresher course to be held at the Delta Montrose Technical College was presented to the committee. They are waiting for the audio/visual components to be submitted to the committee before final approval can be made.

The Denver Police Academy notified the committee of their intent to request an approval for their academy as they will not have conducted an academy for three years.

A representative from the Colorado State Patrol recommended that the Accident Investigation part in the academy curriculum be renamed Accident Documentation as it would be more accurate as to what can be covered in the allotted time. There was an ongoing discussion about providing a 550 hour basic academy template. Sergeant Edmonson will send out a survey for future discussion.

- B. Arrest Control
 - Sgt. Richard “JJ” Webb, Co-Chairman
 - Cpl. Richard Stensgaard, Co-Chairman
 - Vacant, Board Member

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There was no one from the arrest control committee to present information at the Board meeting. Sergeant Dixon volunteered to be the Board representative to the committee.

- C. Firearms Deputy Ed Kafel, Chairman
Tech. Robert Winckler, Vice-Chairman
Sheriff Lou Vallario, Board Member

At the December meeting, the Board will review the proposed program changes to the Handgun Instructor Program. The committee has rewritten the program with emphasis on instructor methodology, coaching, and training liability.

The outline for the basic firearms program was reformatted for clarity purposes with the assistance of POST investigator Cristine Mack. There was a change made at the 10-yard line of the qualification course. Instead of an combat reload with the gun holstered, they will now do a combat reload while at the ready position.

An inspection was conducted at the Teller County Reserve Training Academy firearms program. They are doing a super job.

- D. Law Enforcement Driving Lt. Karl Smalley, Chairman
Sgt. Al Padilla, Vice-Chairman
Chief Heather Coogan, Board Member

There was no one from the driving committee to present information at the Board meeting.

Action Items:

8. Peace Officer Certification Revocation Actions Attorney General John Suthers
Director Paul Schultz
Board Counsel Diane Marie Dash

- A. P.O.S.T. Rule 9 – Revocation of Peace Officer Certifications – Felony Convictions: § 24-31-305, C.R.S.(2)(a) A Colorado peace officer certification issued pursuant to subsection (1) or (1.3) of this section or 24-31-308 shall be suspended or revoked by the P.O.S.T. Board if the certificate holder ***has been convicted of a felony at any time***, or has been convicted on or after July 1, 2001, of any misdemeanor described in subsection (1.5) of § 24-31-305 C.R.S., or, has otherwise failed to meet the certification requirements established by the Board. For purposes of this rule, the term ‘conviction’ includes any deferred judgments or deferred sentences imposed by a court or judge.

1. No. 11-03, Jose Manuel Sanchez Certification No. B11004 (PID 118769). On May 27, 2011, Respondent was found guilty by a jury and was convicted of 2 counts of Sexual Exploitation/Child – Induce/Entice, § 18-6-403(3)(a) C.R.S., a class 3 felony and 2 counts of Sexual Exploitation/Child – Possess Material, § 18-6-403(3)(b.5) C.R.S., a class 6 felony. *The Respondent was employed as a peace officer on the date of the offense*

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(Date of Offense: October 21, 2010 – Separated: December 16, 2010).
The Respondent has failed to comply with P.O.S.T. Show Cause Order 11-03 by failing to appear at the scheduled Show Cause Hearing. Director Schultz recommends revocation of Jose Manuel Sanchez's Colorado Peace Officer Certificate No. B11004 (PID 118769).

Approved unanimously

2. No. 11-04, Jason Paul Grothe Certification No. B09318 (PID 100065).
On July 1, 2010, Respondent pled guilty to and was convicted of 1 count of Vehicular Assault – DUI, § 18-3-205(1)(b) C.R.S., a class 4 felony. *The Respondent was employed as a peace officer on the date of the offense (Date of Offense: June 26, 2009 – Separated: September 18, 2009).* The Respondent has failed to comply with P.O.S.T. Show Cause Order 11-04 by failing to appear at the scheduled Show Cause Hearing. Director Schultz recommends revocation of Jason Paul Grothe's Colorado Peace Officer Certificate No. B09318 (PID 100065).

Approved unanimously

3. No. 11-05, Mark Keith Conrad Certification No. 15820 (PID 105856). On May 13, 2011, Respondent pled guilty to and was convicted of 1 count of Internet Sex Exploit of a child – Att, § 18-3-405.4(1) C.R.S., a class 5 felony. *The Respondent was not employed as a peace officer on the date of the offense (Date of Offense: July 9, 2010 – Separated: February 6, 2001).* The Respondent has failed to comply with P.O.S.T. Show Cause Order 11-05 by failing to appear at the scheduled Show Cause Hearing. Director Schultz recommends revocation of Mark Keith Conrad's Colorado Peace Officer Certificate No. 15820 (PID 105856).

Approved unanimously

4. No. 11-06, Dominick Gabriel Lucero Certification No. B8633 (PID 113792). On June 20, 2011, Respondent pled guilty to and was convicted of 1 count of Child Abuse – Negligently Cause Serious Bodily Injury, § 18-6-401(1)(a) and (7)(a)(IV) C.R.S., a class 4 felony and 1 count of Sex Assault/Child/Position of Trust/Victim 15-18 – Att § 18-3-405.3(1), a class 5 felony. *The Respondent was employed as a peace officer on the date of the offense (Date of Offense: March 27, 2010 – Separated: December 8, 2010).* The Respondent has failed to comply with P.O.S.T. Show Cause Order 11-06 by failing to appear at the scheduled Show Cause Hearing. Director Schultz recommends revocation of Dominick Gabriel Lucero's Colorado Peace Officer Certificate No. B8633 (PID 113792).

Approved unanimously

- B. P.O.S.T. Rule 9 - Revocation of Peace Officer Certifications – Misdemeanor Convictions: **§ 24-31-305, C.R.S.(2)(a)** A Colorado peace officer certification issued pursuant to subsection (1) or (1.3) of this section or 24-31-308 shall be suspended or revoked by the P.O.S.T. Board if the certificate holder has been convicted of a felony, or has been convicted on or after July 1, 2001, of any misdemeanor described in subsection (1.5) of § 24-31-305 C.R.S., or has otherwise failed to meet the certification requirements established by the Board. For purposes

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of this rule, the term ‘conviction’ includes any deferred judgments or deferred sentences imposed by a court. Revocation of peace officer certificates based upon conviction(s) of misdemeanor crimes are recognized in § 24-31-305(1.5) (b) thru (h), C.R.S.

1. No. M10-09, Mark Allen Amelkin, Certification No. B7260 (PID 114868). On December 15, 2010, Respondent pled guilty to 1 count of Harassment – Repeat Telephone Calls, §18-9-111(1)(f), C.R.S., a class 3 misdemeanor. *The Respondent was not employed as a peace officer on the date of the offense (Date of Offense: June 20, 2010 – Separated: December 18, 2005).* The Respondent has failed to comply with P.O.S.T. Show Cause Order M10-09. Director Schultz recommends revocation of Mark Allen Amelkin’s Colorado Peace Officer Certificate No. B7260 (PID 114868).

Approved unanimously

2. No. M11-06, David George Unverferth, Letter of Conditional Authority (PID 130228). On May 27, 2011, Respondent pled guilty to 1 count of Assault 3 – Know/Reckless Cause Injury, §18-3-204(1)(a), C.R.S., a class 1 misdemeanor. *The Respondent was not employed as a peace officer on the date of the offense (Date of Offense: June 20, 2010 – Never Appointed).* The Respondent has failed to comply with P.O.S.T. Show Cause Order M11-06. Director Schultz recommends revocation of David George Unverferth’s Colorado Letter of Conditional Authority (PID 130228).

Approved unanimously

- C. P.O.S.T. Rule 9 (b) - Revocation Hearings for Criminal Conduct: P.O.S.T. Rule 9 (b) allows a peace officer certificate holder, **within thirty (30) days after the effective date of the conviction** of a misdemeanor to petition the Board not to revoke the certificate. The petition must fully explain all relevant facts. The petitioner has the burden to meet the requirements of the rule.

1. No. M11-03, Steven Floyd James, Certification 15524 (PID 115175.) On February 16, 2011, Respondent was convicted, in a trial to the court, of one (1) count of Obstructing Firefighter/Medical, Section 18-8-104 (1) (a), C.R.S., a class 2 misdemeanor. *Respondent was employed as a peace officer on the date of the offense (Date of offense: March 27, 2010- Separated: January 11, 2011.)* Respondent failed to comply with P.O.S.T. Rule 9 (b) requirement to petition the Board to **not** revoke his certificate within thirty (30) days after the effective date of the conviction. On May 24, 2011, Respondent filed a Response to Order to Show Cause-Revocation Hearing Upon Conviction of a P.O.S.T. Recognized Misdemeanor. In his Response, Respondent requested that Director Schultz postpone taking action until appeal of the conviction was resolved. The District Attorney of the Fifth Judicial District actively prosecuted Respondent and is actively defending the conviction on appeal. On August 24, 2011, Director Schultz denied the request and advised Mr. James that he could appeal his decision to the Board within 30 days. On September 8, 2011, Respondent filed his Notice of Appeal Pursuant to Rule 5 (hearings

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in general) and Rule 8 (peace officer applicants.) Rule 8 applies to new applicants, not current peace officers.

P.O.S.T. Rule 9 (e) provides that if at least six (6) members of the Board affirmatively vote to hear the appeal, a five-member panel is selected and shall proceed to hear the Board appeal. The decision of the five-member panel shall be deemed final Board action.

Board Counsel reviewed that the statute allows the revocation by the Board to take place upon conviction. The Board does have the obligation to provide due process so there is an opportunity for the certificate holder to appear before the Board.

A motion was made and seconded to grant him a hearing before a five member panel of Board members.

Approved unanimously

The panel set up for the hearing will include Chief Wohlers, SAC Yacone, Chief Beckner, Chief Camper, and Mr. Pence. Director Schultz will coordinate the hearing.

D. Reinstatement of Certification:

1. No. 11-01, Brian L. Williams, Certification No. B4247 (PID 113174). On June 3, 2011, the POST Board voted to revoke the peace officer certification of Brian L. Williams based upon entry of a plea of guilty to a class 6 felony on January 4, 2011. On July 1, 2011, Mr. Williams' attorney notified Director Schultz that the revocation was in error due to the Court vacating the guilty plea on March 30, 2011 and entering a plea of not guilty. A trial on the class 6 felony is scheduled for December 2011. On July 29, 2011, Mr. Williams' attorney submitted a formal request to vacate the revocation of the peace officer certification of Brian L. Williams.

Director Schultz recommends reinstatement of Brian L. Williams' Peace Officer Certification No. B4247 (PID 113174) pending the outcome of his case.

Even though Mr. Williams pled guilty to his charge, the judge did not accept his plea. Because of this POST does not have discretion in revoking his certification and so need to reinstate his certification pending the outcome of his trial in December 2011.

Approved unanimously

9. Subject Matter Expert (SME) Teaching as Independent Contractors

Director Paul Schultz

A. Update/Final Action

The policy states that in order for SME members to teach any classes, they must not have voted on any POST training grants during the year in which the training took place to avoid a conflict of interest.

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It was recommended that email and phone section have more space between them in both areas on the form.

It was moved to approve the policy and the form.

Approved unanimously

10A. Conditional and Basic Peace Officer Status

Chief Heather Coogan

Over the last couple of years, the economy has affected the ability of individuals to obtain a position within the one to one and one-half year time frame. It takes four to eight months to hire a peace officer so the time passes quickly for these individuals. Even though someone's skills may degrade during that period of time, most departments will have some type of training policy with regard to new officers. It is recommended that the time frame be changed back to three years and to develop a sub-committee to work out the details. This will require a statute change.

It was moved and seconded to form a committee to work out the details and to work with the Office of the Attorney General's office to find a sponsor for the bill. The committee will consist of Chief Coogan, Sergeant Dixon, Sheriff Taylor and Ruth VanDerBroek. The committee will bring it back to the full Board at the December meeting to verify the wording of the statute.

Approved unanimously

10. P.O.S.T. Peace Officer Training Project Grant Awards

Director Paul Schultz
Chief Heather Coogan

A. Colorado Association of Chiefs of Police request \$15,000 for Ethics Training

Chief Don Wick of Arvada Police Department has requested a contract for Neil Troutman, a national ethics instructor. This training would be done through Colorado Association of Chiefs of Police (CACP). This training will be for field officers throughout the state of Colorado. The cost will be well over \$15,000 but CACP and other associations will put funds towards this project. This training is open to every peace officer in the state but the number of individuals that will be trained will be very low so it cannot be looked at as a one time deal but an ongoing process. A request for additional funds could be made next year as well.

It was moved and seconded to approve the request for the \$15,000.

Approved unanimously

B. Greater Metro Region request \$15,000 for 1st Annual Law Enforcement Training Conference

The initial paperwork for this request was sent in but it was incomplete so it was denied. The second submission provided the required information. There is a goal of having 500 officers attend and will be open to all Colorado Peace Officers.

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It was moved and seconded to approve this request for \$15,000.
Approved but with three no votes

C. Final Action/Approval

Informational Items:

11. **2011 P.O.S.T. Sunrise Review Sub-Committee**

Director Paul Schultz
Sheriff Kirk Taylor

A. Committee Update

There were six applicants requesting Peace Officer Authority. Of those six, two were denied and four were approved.

Colorado Mounted Rangers: Recommends denial due to lack of statutory authority.

Colorado Association Animal Control Officers: Recommends denial as they already having statutory authority so no additional authority is needed.

City Prosecutors Group: Recommends support for the request for state authority in the performance of their duty as a prosecutor for self defense and to enhance any crime of which they may be a victim.

Fort Carson Police: Recommends support for the request for state authority to be Peace Officers on base when dealing with civilians. They would be the first responders if a civilian commits a felony and the case would then automatically be taken care of by the bureau.

US Postal Inspection Service: Recommends support for the request for authority due to their multiple involvements with other task forces and have their own training and field officer academy.

Department of Public Safety: Recommends support for the request for authority for the Assistant Deputy Director, Director of Homeland Security, and the Director of Criminal Justice for the purpose of acting on his behalf during the absence of the Director of Public Safety.

It was moved and seconded to approve the recommendations of the committee.

Approved unanimously

12. In-Service Training Academy

Director Paul Schultz

A. Update

The 40 hour training program started it's first class on November 7, 2011 at Camp George West. This in-service will allow the officers to receive a year's worth of in service training in one week. Room and board is included in the cost of the in-service. CSP is not charging for the rooms and is only charging for the meals at cost. This event is POST sponsored and funded.

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13. New Instructor Requirements Director Paul Schultz

A. Out of State Instructors

POST would like to tighten up standards for instructors from out of state requesting POST Instructor Status. An approval to develop the language and to go forward is requested. The language will be presented at the next Board meeting.

Approval granted

14. Recommendation for new P.O.S.T. Committee Director Paul Schultz

A. Credentialing Committee

POST is requesting the formation of a credentialing SME committee which would give POST recommendation as to whether or not outside companies have quality instruction and quality training and should be allowed to train in the state of Colorado. This would apply only to entities wanting to train under the training grant.

POST is directed to develop suggested criteria to be created by POST to be discussed at the next Board meeting.

15. LETN (Law Enforcement Training Network) Director Paul Schultz

A. Update

This on-line training will be going on-line very soon. We are funding 33 smallest agencies in Colorado, 11 sheriff's offices and 22 police departments for a total of 208 officers.

16. Public Comments P.O.S.T. Issues

Lieutenant JD Ross from El Paso County Sheriff Office requested clarification on the ethics training that will be funded by POST and driven by the metro area. How many sessions of this training are going to occur? At this time there are four sessions scheduled in Fort Collins, Denver, Colorado Springs and Grand Junction. Lt. Ross made the recommendation that there be ongoing training for training the trainer so more officers can be reached.

Corporal Pat Heine of Pueblo PD protested the decision that was made to cut the community policing course training to 4 hours instead of the original 12 hours. It was clarified that the change is only a minimum requirement for community policing training, not the maximum hour requirement. Any academy can go beyond that set minimum requirement. Other parts of the curriculum needed to have more hours added to their sections so hours in other areas needed to be decreased.

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17. 2011 P.O.S.T. Board Meeting Schedule

A. Friday, December 2, 2011 – Colorado Department of Law

18. Executive Session

A. Two-thirds vote

It was moved and seconded to go into executive session

Approved unanimously

19. Update on New P.O.S.T. Test

Director Paul Schultz

Five candidates for the implementation of the new POST test were selected – 4 national and 1 local. The RFP has been prepared and sent out to all five candidates. The RFP must include 400 approved questions and a security protocol. Other elements which will be added to the cover of the test are photo identification of person taking the test, a finger print of person taking the test, a statement that says if you are not who you say you are on the test or if you cheat on the test you will be subject to administrative and criminal sanctions. It is hoped we will be able to find certified paper which will prevent the opportunity for the test to be copied.

The selected vendor will visit Colorado twice to review what a Colorado Peace Officer does and review the Colorado curriculum to develop test questions that are applicable to Colorado. Sample tests will be given to 150 officers in the state of Colorado.

\$40,000 has been budgeted for a one year contract with ongoing support at an additional cost if necessary. POST staff will still be required to monitor the test. Director Schultz will select three members of the Board to give their approval on the selection of the vendor along with the Department of Law and bring the recommendation to the Board.

20. Adjournment

At the request of Board Counsel Diane Dash, the RFP was approved by the Board.

It was moved and seconded to adjourn.

Approved unanimously

Next P.O.S.T. Board Meeting

Colorado Department of Law

1525 Sherman Street

Denver, CO 80203

Friday December 2, 2011 – Board Meeting

S.M.E. Meetings - 8:00 a.m. – Board Meeting – 10:00 a.m.